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WASHINGTON, D.C. 20505

Legislative Counsel

OLC 78-5131/E

29 November 1978

MEMORANDUM FOR: See Distribution

SUBJECT : Proposed Legislative Program for the First
Session of the 96th Congress

1. The proposed 1979 legislative program for the Intelligence Community and the Central Intelligence Agency was transmitted to the President and the Office of Management and Budget on 15 November 1978 as part of the consolidated NFIP budget. Since those at OMB who receive and review the budget are not the same persons responsible for coordinating legislative proposals from Executive agencies and departments, this Office forwarded a separate copy of the program to the Assistant Director for Legislative Reference at OMB. A copy of the program and the transmittal letter are attached for your information. Please note that the letter highlights the fact that although Charter Legislation is not identified as a new, separate legislative proposal for the first session of the 96th Congress, this subject is a most important legislative concern of the Director; one which likely will involve consideration of the whole range of intelligence-related legislative matters, including those listed in the draft program.

2. Please feel free to contact this Office with views and recommendations at any time as we proceed with these legislative matters during 1979.

SIGNED

Frederick P. Hitz

Attachments

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INTELLIGENCE COMMUNITY
PROPOSED LEGISLATIVE PROGRAM
FOR THE FIRST SESSION OF THE
96TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSAL

96-1. Fiscal Year 1980 Intelligence Authorization Bill: The Government's first Intelligence Authorization bill was passed by the Congress and signed into law by the President in 1978. The Director of Central Intelligence intends to submit to OMB a proposed fiscal year 1980 Intelligence Authorization bill for submission to the Congress early in the first session of the 96th Congress. The language and terms of such a proposed authorization bill are currently being studied by the Director and components of the Intelligence Community. It is anticipated that the bill to be proposed will, among other things, address the problems and potential problems which developed during the process of enacting the FY 1979 authorization bill and which may develop as a result of the implementation of that legislation. Such problems include, for example, language in the legislation incorporating classified annexes by reference; some ambiguity over specific functions performed by certain components of the Intelligence Community and whether these are intelligence matters; and whether it is possible in the legislation to define "intelligence related activities." A major programmatic initiative being considered in order to provide incentives to intelligence production analysts is a request to authorize either a specialist grade structure in DIA or to allow the DCI to administer a bonus or incentive program.

CENTRAL INTELLIGENCE AGENCY
PROPOSED LEGISLATIVE PROGRAM FOR THE
FIRST SESSION OF THE 96TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSALS

96-1. Legislation to Provide Legislative Relief from the Freedom of Information Act: The fiscal year 1980 budget submission of the Director of Central Intelligence contained, as an integral provision thereof related to budgetary cuts, proposed legislative relief from the Freedom of Information Act (FOIA). The Director of Central Intelligence intends to propose during the first session of the 96th Congress, legislation which would have the effect of excluding from the provisions of the FOIA certain CIA records systems.

This legislation is a major concern for the CIA for several reasons. In the first place, the amount of information of this type which is releasable to the public is extremely small in comparison to both the tremendous number of man-hours required to review it and to the actual quantity of information which must be reviewed pursuant to the terms of the FOIA as currently drafted. In the final analysis, the Agency is unable to release all but a very small portion of this vast quantity of material that must be reviewed. The manpower required by this task necessarily must be drawn from areas in which it would normally be utilized to further the intelligence mission of the CIA. Furthermore, an expanded exemption would clearly demonstrate to those individuals and agencies abroad with which the CIA deals that the information which is provided to us will not be released in any form, a condition without which the information would simply not be provided to us.

The Agency currently is studying the form such an exemption would take. It could, for example, be formulated along the lines of exempting from the Act itself, and thereby from the review requirements of the Act, certain record systems maintained by the Agency which consist of raw and unevaluated intelligence information. Additional vehicles under consideration are the intelligence charter legislation and provisions in the intelligence authorization bill.

This legislation would result in significant savings to the public and to the Agency, since an exemption of particular record systems from the review requirements of the FOIA would greatly reduce the currently enormous time necessary to process and review such requests.

96-2. Legislation to Protect Against the Unauthorized Disclosure of Intelligence Sources and Methods, Including Information Revealing the Identities of Certain Intelligence Personnel: Recent publication of information purporting to identify the covert operations, contacts and identities of U.S. Government intelligence officers serving at home and abroad serves to underline the importance of securing legislation which would provide criminal penalties for the unauthorized disclosure of identities of present and former intelligence personnel who are or have been undercover. Toward this goal, the Director of Central Intelligence in conjunction with the Attorney General and other appropriate agencies and departments, is considering legislative proposals to protect against the unauthorized disclosure of intelligence sources and methods. This review is taking place in the context of the present statutory authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure (paragraph 102(d)(3) of the National Security Act of 1947, as amended), the pending intelligence charter legislation (S. 2525/H.R. 11245), and separate legislation introduced by various members of Congress during the 95th Congress.

Action by the 96th Congress to protect against the unauthorized disclosure of intelligence information is essential in order to prevent, to a much greater degree than is possible under current law, serious damage to our foreign intelligence effort resulting from the unauthorized disclosure of information relating to intelligence sources and methods.

96-3. Authority of the Director of Central Intelligence to Authorize Personnel of the Central Intelligence Agency to Carry Firearms Under Certain Circumstances: The Director of Central Intelligence submitted through OMB to the Congress during the second session of the 95th Congress, legislation that would amend those provisions of the Central Intelligence Act of 1949, as amended which relate to the carrying of firearms by CIA personnel. This legislation was referred to the Intelligence Oversight Committee in each House but no further action was taken by the

95th Congress. Although this matter is addressed in provisions of the Intelligence Charter legislation (S. 2525/H.R. 11245), the Director of Central Intelligence continues to believe that legislative clarification of the authority for CIA personnel to carry firearms is of sufficient importance and urgency to warrant separate prompt action by the Congress. The Director, therefore, intends to resubmit such legislation early in the first session of the 96th Congress. The terms of, and explanation for, this legislative proposal are contained in the Director's proposed legislative program for the second session of the 95th Congress and in the separate legislative proposal submitted in 1978 pursuant to that program.

96-4. Legislation to Allow Annual Educational Travel for Dependents of Employees of the Central Intelligence Agency Serving Overseas, and to Allow for the Payment of a Death Gratuity to Surviving Dependents of Employees of the Central Intelligence Agency who Die as a Result of Injury Sustained in the Line of Duty: P.L. 93-475, approved 26 October 1974, granted authority for two new benefits for employees of the Department of State, AID and USIA (now ICA) serving overseas. The benefits provide for (1) one round trip per year to and from overseas posts for student-dependents who attend high school or college in the United States; and, (2) payment of a death gratuity to the surviving dependent[s] of an employee who dies as a result of injuries sustained in the line of duty which is in addition to any other benefit[s]. Although a portion of CIA officers serving overseas receive the travel benefit, others do not. Currently no Agency officers serving overseas receive the death gratuity.

As Agency officers serve in circumstances similar to employees of State, USIA and ICA, it is inequitable that they do not receive the same statutory benefits as do their counterparts. The Director of Central Intelligence, therefore, intends to submit legislation in the first session of the 96th Congress to correct this inequity, so that benefits available to CIA personnel serving overseas are comparable to those received by employees of other Executive Branch agencies in similar circumstances.

It is estimated that, in light of past experience and numbers of employees that would be eligible for the two benefits, the cost to the United States Government would be in neighborhood of \$200,000 per year.

Office of Legislative Counsel

15 November 1978

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

Enclosed is the proposed legislative program of the Director of Central Intelligence for the first session of the 96th Congress. In accordance with Office of Management and Budget Circular No. A-19, revised, and Director McIntyre's memorandum of 18 August 1978, this legislative program is being submitted as part of the consolidated National Foreign Intelligence Program budget to the President. The program is in two parts, reflecting legislative proposals of interest primarily to the Central Intelligence Agency, and those reflecting concerns of the Intelligence Community.

Intelligence charter legislation was introduced in both Houses of Congress during the second session of the 95th Congress. Extensive hearings were held by the Senate Select Committee on Intelligence, and the Administration has devoted considerable time to the study of the charter legislation and the development of positions thereon. This process will probably accelerate during the first session of the 96th Congress. The Director of Central Intelligence, therefore, will be considering the full range of legislative matters, both proposed and current which pertain to the Central Intelligence Agency and other entities of the Intelligence Community, in the context of the charter legislation.

Included in the enclosed legislative program, however, are several specific legislative matters of concern to the Director on which he intends to act during the first session of the 96th Congress. At this time, we envisage five such matters, which are explained in the enclosed program:

- a. Fiscal Year 1980 Intelligence Authorization Bill.
- b. Legislation to provide relief from the Freedom of Information Act.
- c. Legislation to protect against the unauthorized disclosure of intelligence sources and methods, including information revealing the identities of certain intelligence personnel.

d. Clarification of the authority of the Director of Central Intelligence to authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances.

e. Legislation to allow annual educational travel for dependents of employees of the Central Intelligence Agency serving overseas, and to allow for the payment of a death gratuity to surviving dependents of employees of the Central Intelligence Agency who die as a result of injury sustained in the line of duty.

It is not anticipated that any laws or provisions of laws affecting the Central Intelligence Agency will expire in 1978.

Sincerely,

ATTACHED


Acting Legislative Counsel

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Enclosures